

Message Text

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ACTION EB-07

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OMB-01 CIEP-01 NSC-05 SS-15 CIAE-00 INR-07 NSAE-00

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R 240945Z NOV 76
FM AMEMBASSY DAR ES SALAAM
TO SECSTATE WASHDC 3292

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E.O.11652: N/A
TAGS: EINV, TZ
SUBJECT: VON ZASTROW CLAIM

REF: STATE 267871

INTRODUCTION: EMBASSY APPRECIATES RESEARCH EFFORT THAT WENT INTO PREPARING REFTEL SITUATION REPORT AND QUESTIONNAIRE. REFTEL TOGETHER WITH CONTENTS THIS MESSAGE SHOULD PROVIDE US WITH ADEQUATE BASE ON WHICH TO MAKE JUDGMENTS THAT MAY BE REQUIRED IN RELATION THIS CASE. UNLESS OTHERWISE NOTED, ALL INFORMATION BELOW HAS BEEN SUPPLIED BY VON ZASTROW'S ATTORNEY, WITHERS-PAYNE. THE EMBASSY NOT IN A POSITION VOUCH FOR RELIABILITY OF DATA PROVIDED AND SHOULD NOT BE REFERRED TO AS ITS SOURCE. RESPONSES ARE KEYED TO REFTEL PARAGRAPHS. END INTRODUCTION.

1. A) ATTORNEY REPORTS THAT MEETING HELD IN MOSHI WITH TREASURY REGISTRAR ON NOV 5 AND 6. THANKS TO INCREASING DIPLOMATIC, PARTICULARLY UK, AND OTHER PRESSURES ON TANGOV, REAL PROGRESS WAS MADE. ABOUT SIX CASES WERE SETTLED AND TANGOV AGREED PROVIDE BREAKDOWN OF ITS OFFERS TO HEOP NEGOTIATIONS IN REMAINING. VON ZASTROW CASE NOT SPECIFICALLY ADDRESSED. ANOTHER MEETING IN MOSHI EXPECTED END OF DEC UPON RETURN OF TREASURY REGISTRAR FROM PILGRIMAGE.

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B) MRS. VON ZASTROW HAS ASKED WITHERS-PAYNE TO REPRESENT HER AND INDICATED SHE MIGHT SETTLE FOR AMOUNT EQUAL TO FOREIGN EXCHANGE INVESTMENT IN THE ESTATE. HOWEVER, ATTORNEY AWAITING WORD RE VON ZASTROW'S WILL, IF ANY, AND HEIR AUTHORIZED GIVE HIM POWER OF ATTORNEY. HE HAS NOTIFIED TANGOV OF DEATH AND FEELS HE NOT IN POSITION NEGOTIATE FURTHER UNTIL HE ON FIRM LEGAL GROUND.

C) ABOUT 25 OF ATTORNEY'S 50 COFFEE ESTATE CASES HAVE NOW BEEN SETTLED. THERE PROGRESS IN ABOUT 10 OF REMAINING 25 CASES WHICH INCLUDE BRITISH, GERMAN, GREEK, TANZANIAN AND ITALIAN NATIONALS. DISPUTES CENTER ON LOW TANGOV OFFERS AND BANK BALANCE ISSUE. VON ZASTROW CLAIM IS TOUGHEST BECAUSE EH OVERVALUED HIS PROPERTY AND TANGOV UNDERVALUED IT. THERE LITTLE BASIS FOR CLOSING GAP AND BOTH SIDES STUBBORN. PROBLEM IS VON ZASTROW CONCENTRATED ON SAFARI BUSINESS (NOT ELIGIBLE FOR COMPENSATION) TO DETRIMENT HIS COFFEE ESTATE, WHICH IN ITS LAST YEARS SHOWED LITTLE PROFIT (SEE BELOW).

2. PARA 3 REFTTEL SUBSTANTIALLY CORRECT EXCEPT FOR AMOUNT INVESTED. ACCORDING ATTORNEY'S CERTIFIED RECEIPTS, VON ZASTROW BROUGHT INTO TANZANIA \$59,591 FROM HIS PERSONAL SAVINGS IN VARIOUS INSTALLMENTS DURING 1958. IN 1963 HE ALSO INTRODUCED PERSONAL SAVINGS OF ROUGHLY \$4,650 IN SWISS FRANCS FOR TOTAL INVESTMENT OF \$64,241.

3. PARAS 4, 5 AND 6 REFTTEL SUBSTANTIALLY CORRECT.

4. PARA 7 SUBSTANTIALLY CORRECT, WITH FOLLOWING CLARIFICATIONS. DEDUCTIONS OF SHS 117,810 ARE ACCEPTED BY ATTORNEY. THEY STEM FROM UNREPAID SHS 100,000 LOAN (THE \$14,000 MENTIONED PARA 3 REFTTEL) PLUS BACK WAGES ETC. AS YET UNADDRESSED POTENTIAL PROBLEM IS TANGOV TAX CLAIM FOR 1973 WHICH MAY WELL ELIMINATE ANY NET TO VON ZASTROW. LOSS BY VON ZASTROW OR ACCOUNTANT OF PAPERS FOR 1973 TAX PURPOSES FURTHER COMPLICATES MATTER. NOTE THAT \$2,000 NET OFFER IS REALLY NET OF BANK BALANCE AFTER ALL DEDUCTIONS MET. BREAKDOWN OF TANGOV OFFER WAS PROVIDED ON 19 NOV. AND IS EXPLAINED BELOW.

5. RE PARA 8 REFTTEL:

A) SAFARI BUSINESS AND COFFEE ESTATE WERE NOT SEPARATE LEGAL LIMITED OFFICIAL USE

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ENTITIES. SAFARI BUSINESS REGISTERED AS LIMITED COMPANY, WHOLLY OWNED BY VON ZASTROW. IT INCLUDED COFFEE ESTATE, WHOSE TITLE IN VON ZASTROW'S NAME. FINANCIAL STATEMENTS WERE COMBINED. WITH EXPROPRIATION AND BLOCKAGE HIS ACCOUNT, VON ZASTROW COULD NOT AFFORD HAVE INDEPENDENT EVALUATION. (MANY OTHER EX-OWNERS DID HAVE ONE.) IN 1974 TANGOV EVALUATED ALL PROPERTIES BUT THESE RECORDS STRICTLY CONFIDENTIAL. ATTORNEY SAID THAT BECAUSE COMPETENT TANGOV OFFICER'S EVALUATIONS BASED ON "UNEXHAUSTED IMPROVE-

MENTS" WERE SO HIGH, TANGOV SHIFTED TO "PROFITABILITY" AS BASIS
OF COMPENSATION.

B) PARA 2 ABOVE RESPONDS.

C) ATTORNEY NOT ABLE PROVIDE THE VARIOUS ESTIMATED VALUES
REQUESTED.

D) LIABILITIES DISCUSSED PARA 4 ABOVE.

E) ACCORDING TANZANIAN TREASURY OFFICIAL, VON ZASTROW'S
AUDITED BALANCE SHEETS (PREPARED FOR TAX PURPOSES) INDICATE COFFEE
ESTATE HAD BEEN ACCUMULATING NET LOSSES FOR SOME YEARS AND THAT
BY END 1972 TOTAL NET WORTH OF ESTATE AND SAFARI BUSINESS WAS
SHS 18,560. EXCEPT FOR WHAT HE APPARENTLY TOOK TO LIVE ON, BALANCE
SHEETS SHOW NO NET RETURN DESPITE ROUGHLY SHS 100,000 ANNUAL GROSS
FROM SAFARI BUSINESS.

F) CONDITION OF PROPERTY, BUILDINGS AND COFFEE TREES AT TIME
EXPROPRIATION WAS GENERALLY GOOD. IMPROVEMENTS WERE DESCRIBED
PARA 6 REFTEL. IN LATER YEARS VON ZASTROW CONCENTRATED ON SAFARI
RATHER THAN COFFEE ASPECTS OF BUSINESS.

G) WILL RESPOND AS SOON AS ATTORNEY HAS SUPPLIED US WITH INFO
FROM FINANCIAL STATEMENTS.

H) ANY AND ALL PROFITS WERE REINVESTED.

I) FOR VON ZASTROW (C) AND (E) WOULD BE LESS THAN OTHER FARMS
FOR REASONS ALREADY NOTED AND BECAUSE VON ZASTRWO WAS NOT AS GOOD
A FARMER AS SOME OTHERS.

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6. ON 19 NOV TREASURY OFFICER DREW ON HIS NOTES TO PRESENT ORALLY TO EMBOFF FOLLOWING BREAKDOWN OF TANGOV OFFER.

A) RECEIPTS FROM SALE OF COFFEE BASED ON RECORDS OF TANZANIA COFFEE AUTHORITY OVER ARBITRARY FOUR YEAR PERIOD (1969-72) WERE DIVIDED TO GET AVERAGE ANNUAL GROSS COFFEE PROCEEDS OF SHS 71,278.

B) AVERAGE ANNUAL PROCEEDS FROM OTHER SURCES, E.G., POULTRY (BUT NOT SAFARI) OF SHS 40,704 WERE ADDED.

C) EXPENSES/SALARY CALCULATED AT STANDARD 80 PERCENT DEDUCTED TO GET ANNUAL NET PROFIT.

D) THIS CAPITALIZED BY 3.5 (OUT OF 3.5 TO 4.2 RANGE), BASED ON POOR PROFIT RECORD, FOR TOTAL OF SHS 78,386.

E) CURRENT ASSETS OF SHS 55,000 (BANK BALANCE OF SHS 37,000, ETC.) WERE ADDED TO GET TOTAL OFFER OF SHS 133,528. HE SAID THAT TANGOV STILL WILLING TO NEGOTIATE AND IMPLIED FIGURE COULD POSSIBLY BE INCREASED BY SHS 20,000 OR SO.

7. RE PARA 9 QUESTIONS:

A) UNDER 1967 LAND ACQUISITION ACT THERE IS NO COMPENSATION FOR VACANT LAND OR LAND AS SUCH BUT ONLY FOR IMPROVEMENTS ON IT. LIMITED OFFICIAL USE

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IN ADDITION, 1971 ACQUISITION OF BUILDINGS ACT EXCLUDES COMPENSATION FOR BUILDINGS OVER 10 YEARS OLD.

B) TANGOV APPARENTLY DROPPED NOTION OF "POTENTIAL" AND MERELY USED PROFITABILITY BASED ON SUFFICIENT NUMBER OF PREVIOUS YEARS TO GET A "FAIR" ANNUAL AVERAGE.

C) STANDARD DEDUCTION APPLIED TO ALL SUCH PROPERTIES.

D) GERMAN CASE CITED REFTTEL WAS LATER CORRECTED BY TANGOV TO EXCLUDE PROCEEDS FROM SAFARI BUSINESS. TANGOV OFFICIAL TOLD EMBOFF THAT SAFARI BUSINESS INTANGIBLE, UNWANTED, AND OF NO VALUE TO THOSE WHO TOOK OVER THE ESTATE. THEREFORE, HE SAID THERE NO BASIS FOR INCLUDING THE BUSINESS, ITS PROFITS OR LIVELIHOOD ASPECTS IN COMPENSATION. (EMBOFF DISAGREED.) TREASURY OFFICER ADDED THAT SAFARI ACTIVITIES DEPENDENT ON TAN GOV LICENSES WHICH REVOKABLE AT ANY TIME AND THEREFORE HAD NO REAL VALUE ASIDE FROM EQUIPMENT. ATTORNEY SAID ABOVE IS STANDARD,

NON-NEGOTIABLE TANGOV APPROACH ON COMPENSATION AND HE SEES
NO HOPE OF REVERSING IT.
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